

ORIGINAL

WASHINGTON DEPARTMENT OF ECOLOGY

MODIFICATION OF INDUSTRIAL STORMWATER GENERAL PERMIT

PUBLIC HEARING

September 24, 2004

2:50 p.m.

Hal Holmes Center
201 North Ruby Street
Ellensburg, Washington

BRIDGES & ASSOCIATES
Certified Shorthand Reporters
P. O. Box 5999
Kennewick, Washington 99336
(509) 735-2400 - (800) 358-2345

1 MS. POSTON: Let's go ahead and get started
2 in the hearing, please. And if you have more questions for
3 Bill, he will certainly be hanging around. Hopefully he
4 can address your issues.

5 Okay. As Bill indicated earlier, I am Bev
6 Poston, and I wear a lot of different hats at Ecology, and
7 one of them is I am a Hearings Officer, and this is the last
8 of our public hearings that we have held around the state
9 regarding the proposed modifications for the industrial
10 stormwater general permit, and I am looking forward to
11 getting home tonight. It's been a long week.

12 We have a court reporter tonight, and we have
13 one person at this point in time who has indicated that they
14 would like to provide testimony.

15 The reason we have a court reporter, so that
16 Ecology could get a verbatim transcript of the issues raised
17 during the testimony process.

18 So, what I will do is I have some information
19 that I need to read as part of the public record, and then I
20 will call Mr. Rudy up, to come up and provide his testimony.

21 And when he is done, I will ask if there is
22 anyone else here who would also like to provide testimony
23 for the public record. And if there's nobody else, I have a
24 few more things to read into the record, and then we will
25 adjourn the public record, and Bill will be able to exchange

1 in dialogue.

2 At this point in time we are not in a dialogue
3 exchange situation. If you have questions or comments of
4 concern that you want as part of the public record that you
5 want the Department of Ecology to formally respond to, now
6 is the time to ask them. Because we will be preparing the
7 document that will respond to those issues and concerns that
8 are raised. And I will give a little bit more information
9 about that a little bit later.

10 So, any questions? Okay.

11 Let the record show that it is 2:56 p.m. on
12 September 24th, 2004, and this public hearing is being held
13 in the Hal Holmes Community Center located at 201 North Ruby
14 Street, Ellensburg, Washington.

15 The primary purpose of this hearing is to
16 receive public comments regarding the proposed modification
17 to the industrial stormwater general permit.

18 The legal notice of this hearing was published
19 in the Washington state register on August 18th, 2004, issue
20 number 04-16-121. In addition, notices of the hearings were
21 published also on August 8th, 2004 in the following
22 newspapers: The Bellingham Herald, the Kennewick Tri-City
23 Herald, the Vancouver Columbian, the Seattle Daily Journal
24 of Commerce, the Spokane Spokesman Review.

25 The Department of Ecology also directly mailed

1 out approximately 1300 hearing announcements to permit
2 holders, environmental groups, state and federal agencies,
3 the tribes, and other interested parties.

4 At this time I have one person who has indicated
5 they would like to provide testimony in this public hearing.
6 Mr. Tim Ruby, if you would come up, state your name, your
7 address and your affiliation, please begin your testimony.
8 Thank you, sir.

9 MR. TIM RUBY: I am Tim Ruby, and I am here
10 representing the Del Monte Corporation. We have two
11 facilities here in Washington; one in Yakima, Washington,
12 and one in Toppenish, Washington. We process fruit and
13 vegetables in the state. And I'm the corporate
14 environmental water manager.

15 We are real interested in this revised permit
16 for several reasons.

17 The first comment I would like to make is we
18 believe that this first round, this first permit that was
19 issued should really be a permit for collecting data and
20 becoming familiar with your site, understanding your site
21 limitations, and understanding, you know, where the problem
22 areas are on your site.

23 We believe this is consistent with the recent
24 legislation that was passed, specifically Senate Bill ESSB
25 6415.

1 This data collection process will allow us to
2 start understanding our site so we can start trying to
3 revise our stormwater pollution prevention plans and
4 implement appropriate best management practices.

5 This new permit that's proposed basically issues
6 action levels which require immediate actions to be
7 completed. And we don't believe there would be enough data
8 collected between now and the time that this proposed permit
9 is enacted. So we would like to see the action levels be
10 deleted from the permit for those reasons.

11 The second comment I would like to make is with
12 regard to stormwater discharge to impaired water bodies.
13 Most recently we were given a list, specifically appendix 4
14 and 5 of the current permit, and we just recently became
15 aware that we discharge to a TMDL waterway.

16 Basically, looking at our data, it is very
17 concerning to us, because we would become immediately not in
18 compliance with the permit.

19 And the current permit had a compliance schedule
20 in it. The proposed permit doesn't have a compliance
21 schedule in it, which is very concerning to us.

22 Again, we think that we need five years of data
23 to accurately and scientifically understand our site and
24 develop appropriate best management and treatment practices.

25 So therefore we would like you to go back and

1 relook at the proposed permit and design appropriate
2 compliance schedule for people that discharge into TMDL
3 waterways, similar to the compliance schedule that is in the
4 permit for 303(d) impaired water bodies. We believe that's
5 consistent with the intent of the recent legislation that
6 was passed.

7 The third comment I would like to make is
8 with regard to the stormwater sampling requirements. We
9 believe that we need definite and clear stormwater guidance
10 for collecting samples. We believe the proposed permit
11 sampling would produce biased samples, which is really not
12 to benefit anyone.

13 And this is particularly true since this data
14 will be used for purposes of evaluating your data to the
15 action levels, which kick industries into doing a number of
16 potentially costly things on their site to come into
17 compliance with the action levels.

18 We believe the action levels in the permit are
19 permit limits and will be viewed as permit limits. And it's
20 very concerning to us.

21 We would like to see the current sampling
22 guidelines remain as is, as they are in the existing permit,
23 and not be relaxed in the proposed permit at all.

24 We believe everybody across the state should be
25 collecting samples consistently for comparison purposes, and

1 this is particularly true since we do have competitors, and
2 if we sample differently than they sample, we may have to,
3 for example, implement practices that they would not have to
4 implement, because they are sampling different than we are
5 sampling. Basically, everyone would be sampling any way
6 they want to, basically.

7 This is how the current permit is written, as
8 guidelines. And this is particularly true if this data is
9 going to be used for comparison action levels and for
10 purposes of determining compliance. And this pertains
11 directly to people that discharge into TMDL waterways.

12 We need clear guidance. We can't have any gray
13 areas on how the samples should be collected. And this is
14 particularly true if we are going to be certifying the
15 accuracy of the results with regard to stormwater data, for
16 example, you know, a storm producing high volume of runoff
17 with low pollutant concentration which release a greater
18 number of pollutants.

19 So, what I am saying is the data needs to be
20 collected consistently for fairness across the state.

21 Another point I would make is that you have
22 current published guidelines, and if you go forward with the
23 proposed guidance that you have in this permit, it will be a
24 direct conflict with two of your sampling manuals currently
25 on the street.

1 The first one is How to Do Stormwater Sampling,
2 a Guide for Industrial Facilities, as well as your recently
3 published DOE Guidance Manual for Preparing/Updating
4 Stormwater Pollution Prevention Plans for Industrial
5 Facilities.

6 So, if you decide to go ahead with these
7 guidelines, you are going to have to revise those guidance
8 documents.

9 Our next comment would be the response to
10 monitoring results above the benchmark action levels. We
11 believe that the response levels are highly reactive,
12 particularly to levels 2 and 3 response.

13 We agree that when you do detect data above
14 benchmark values, that there should be an adequate response
15 to that.

16 We're not saying that industry shouldn't do
17 anything. We do believe that we have an obligation and
18 responsibility to address the benchmark values, but we are
19 very concerned with the levels 2 and 3 responses, because
20 they will involve quite a bit of reporting and expense. And
21 we are concerned that we may not have enough data really to
22 adequately characterize our site within the short period of
23 time that you are required to react to this data.

24 We believe the level 1 response is consistent
25 with Senate Bill ESSB 6415, i.e., it does provide mitigative

1 practices. And we believe that that is consistent with the
2 intent of the legislature with respect to responding to
3 values above benchmark values.

4 So, I guess what we would like to see is the DOE
5 to go back and relook at the levels of response 2 and 3. We
6 believe industry needs more time to understand the
7 limitations of our sites, more time to collect data, and we
8 believe a period of five years, the current permit that we
9 are in right now, should only focus on collection of data,
10 and then the next permit cycle should focus on setting
11 action levels and appropriately designing treatment systems,
12 in the next five year permit cycle. And it's purely because
13 we do not think enough data will be collected to adequately
14 characterize our sites.

15 The last comment I would make is with regard to
16 the reporting and record keeping requirements, specifically,
17 initiative S5F of the permit, and that pertains to the
18 public submitting comments to the plants, requiring us to
19 photocopy data and so forth.

20 We believe it's appropriate that the public is
21 certainly entitled to any data. However, we think the
22 request should first go through the DOE, and then the DOE
23 should in kind ask us for copies of the data.

24 Basically, we're concerned about the response
25 time. Our plants aren't adequately staffed to respond to

1 citizen issues or citizen requests for information. And
2 it's always, as far as I know, historically, that's how it's
3 been done, and we would like to see it stay the way it is.
4 We believe the permit fees that we are charged by DOE should
5 adequately cover those services. We certainly will respond
6 to any requests for information made through the DOE. We
7 believe that that's the appropriate way to handle those
8 requests.

9 And that's it. Thank you.

10 MS. POSTON: Okay. Thank you. Is there
11 anyone else who would like to provide testimony at this
12 time?

13 No? Okay. The testimony that was presented at
14 this hearing as well as the written comments that are
15 received are part of the official record for this proposal,
16 and will receive equal weight in the decision-making
17 process.

18 The public comment period ends September 27,
19 2004 at five o'clock p.m. If you would like to submit
20 written comments, please submit them to the Industrial
21 Stormwater General Permit, attention Joyce Smith, Washington
22 State Department of Ecology, Post Office Box 476030,
23 Olympia, Washington, 98504-7600.

24 You may also E-mail comments, and the E-mail
25 address is to Bill, bmoo461@ecy.wa.gov.

1 You may also fax your comments. The fax number
2 is 360-407-6427. And, again, the comment deadline is
3 September 27 at five o'clock p.m.

4 All the oral and written comments that are
5 received during the public comment period will be responded
6 to in a document called the Response to Comment Summary that
7 would state Ecology's official position on the issues raised
8 during the public comment period.

9 This document should be available sometime after
10 October 2004. It will automatically be mailed out to
11 everyone who provided oral or written testimony. It will
12 also be posted on Ecology's stormwater web page.

13 Ecology is hoping to issue this modified permit
14 sometime after October 2004. And as Bill stated earlier,
15 with what some of the issues are and what the timelines are,
16 depending on getting the response to comment summary done,
17 hopefully sometime after October 2004 we will have this
18 permit issued.

19 If the Department of Ecology believes that the
20 comments received either in writing or in oral testimony
21 could substantially change the scope or conditions within
22 the original draft permit modification, another public
23 notice of draft and comment period may be necessary which
24 could result in a delay in issuing of the modified permit.

25 On behalf of the Department of Ecology, thank

you very much for attending our workshop and public hearing. We appreciate your time and your comments. And this hearing is adjourned at 3:10 p.m. Thank you.

(3:30 p.m.)

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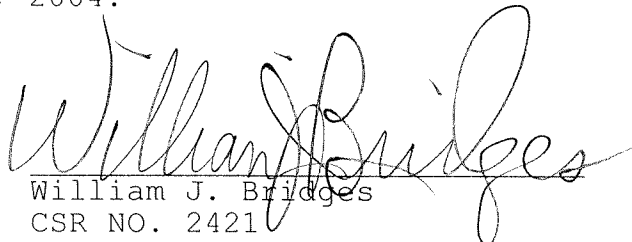
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1 STATE OF WASHINGTON)
2 County of Benton) ss.
3)

4 I, William J. Bridges, do hereby certify that at
5 the time and place heretofore mentioned in the caption of
6 the foregoing matter, I was a Certified Shorthand Reporter
7 and Notary Public for Washington; that at said time and
8 place I reported in stenotype all testimony adduced and
9 proceedings had in the foregoing matter; that thereafter my
10 notes were reduced to typewriting and that the foregoing
11 transcript consisting of 12 typewritten pages is a true and
12 correct transcript of all such testimony adduced and
13 proceedings had and of the whole thereof.

14 4th Witness my hand at Kennewick, Washington, on this
15 day of October, 2004.

16 

17 William J. Bridges
18 CSR NO. 2421
19 Certified Shorthand Reporter
20 Notary Public for Washington
21 My commission expires: 11-1-07
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